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Director

State of California—Health and Human Services Agency  
Department of Health Services



ARNOLD SCHWARZENEGGER  
Governor

MAY 09 2006

TO: SURVEILLANCE COORDINATORS

SUBJECT: NAME-BASED HIV REPORTING

As you may know, on April 17, 2006, Governor Schwarzenegger signed Senate Bill 699 (SB 699) into law. The new law requires health care providers and laboratories to report cases of HIV infection by name to local health departments (LHDs), and requires LHDs to report unduplicated cases of HIV infection by name to the California Department of Health Services (CDHS). Because the bill was carried as an urgency measure, it became effective immediately on April 17, 2006. While CDHS, Office of AIDS (OA) cannot interpret the law, OA can provide guidance on name-based HIV reporting practices. The intent of this letter is to provide that guidance.

Under the new law, LHDs have the authority to release to OA the names of persons with HIV tests performed after the effective date of April 17, 2006. In some cases, it may only be possible to complete an HIV case report form on individuals tested after April 17, 2006, by using information provided to the medical provider by these individuals while HIV reporting by name was prohibited in California. In these cases, OA advises that, in order to protect the vested privacy rights of patients, LHDs honor the terms of the consent form that was in place for the reported individual at the time that individual received the HIV test performed and reported after April 17, 2006. OA advises that LHDs seek the advice of their legal counsel when necessary to determine whether the wording of a consent form would disallow reporting of information from the patient's medical record.

Questions have been raised by health care providers, laboratories, and LHDs regarding re-reporting of information on cases previously reported under the non-name code. SB 699 did not contain any retroactivity provision and Health and Safety Code Section 121022 does not contain language authorizing retroactive reporting of HIV cases by name. OA advises LHDs to consult with their legal counsel regarding their authority to report HIV cases by name retroactively.

Finally, questions have been raised regarding information that can be reported to OA on HIV cases reported by name under the new law. The regulations governing HIV case reporting in California are still in effect, except where they are superseded by the provisions of SB 699. LHDs should continue to use the case report form contained in regulations to report HIV cases by name until a new case report form becomes available. The current statutes specify that HIV cases will be reported by name and are silent regarding other unique identifiers such as Social Security number and medical record number. Regulations will be promulgated within 12 months specifying that Social Security number and other unique identifiers be reported to OA for the purpose of assisting in the de-duplication of HIV reports. Until those regulations are in place, OA advises LHDs to consult with their legal counsel regarding their authority to release Social Security numbers or other non-name unique identifiers to OA.

The statutes provide severe penalties for the unauthorized disclosure of confidential HIV case information, including penalties for unauthorized release of HIV case information to OA by LHDs. Since local health officers, counties and cities would be at risk if they make unauthorized disclosures of HIV case names to OA, OA strongly advises that each LHD obtain an opinion from its own legal counsel regarding any further disclosures the local health officer may be permitted to make under the new law.

Thank you for your efforts to implement name-based HIV reporting in California. We would not be able to move forward with the new HIV name-based reporting system without your continued assistance. Please feel free to contact Laura E. Lund, Chief of the HIV/AIDS Case Registry Section with any questions you may have, at (916) 449-5866 or [LLund@dhs.ca.gov](mailto:LLund@dhs.ca.gov).

A handwritten signature in black ink, appearing to read "Michael Montgomery", with a stylized flourish at the end.

Michael Montgomery, Chief  
Office of AIDS

cc: See Next Page

Surveillance Coordinators  
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cc: Local Health Officers

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